IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE V.V.S.RAO

WRIT PETITION NO.9349 OF 2004

Between:

Smt. Akula Swarna Latha

W/o.Sri Akula Naresh Babu

H.No.12-36, Gajwel, Medak District

...PETITIONER

And

The Regional Passport Officer,

Hyderabad

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or direction declaring the action of the respondent in refusing to correct the date of birth of the petitioner in the passport No.E-5208243 as illegal, arbitrary and consequently direct the respondent to correct the date of birth or to issue a new passport on surrendering the original passport.

Counsel for the Petitioner: MR. O. MANOHAR REDDY

Counsel for the Respondent: SRI A. RAJASEKHAR REDDY

(S.C. FOR CENTRAL GOVT.)

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9349 OF 2004

ORDER:

The petitioner is a resident of Gajwel in Medak District. She obtained passport from the respondent on 14.5.2003. Her date of birth was shown as 10.11.1956. The petitioner alleges that her correct date of birth was 11.11.1957. She relies on affidavit, dt.27.11.1989 of one Dontula Anasuya filed in the Court of Judicial Magistrate of First Class, Gajwel for the said purpose. Alleging that she did not notice the date of birth in the passport she approached the respondent for correction

of date of birth, in vain. Therefore, she filed the Writ Petition seeking a Writ of Mandamus declaring the action of the respondent in refusing to correct the date of birth in the passport of petitioner as illegal and arbitrary. She also seeks a consequential direction to respondent to correct the date of birth as 11.11.1957.

Though interlocutory application is listed, with the consent of the learned counsel for the petitioner and the learned Standing Counsel for the Central Government, the Writ Petition itself is heard and is being disposed of finally.

In ***Ali Imran v. Regional Passport Officer, Secunderabad***, I have considered the Circular dated 18-4-2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

In view of the above clarifications, I disposed of the said case observing as under.

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil court.

In this case the petitioner is not claiming date of birth 15.11.1957 based on any certificate issued by a Statutory Examination Board. In such an event, petitioner has

to approach the Civil Court and obtain appropriate declaration. In that view of the matter, the respondent was justified in refusing to correct the date of birth in the passport. It shall be open to petitioner to approach the Civil Court and obtain appropriate decree and then approach the respondent. In this Writ Petition, no relief can be granted to petitioner.

The Writ Petition, with the above observations, is disposed of. No costs.

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(V.V.S.RAO, J)

2.9.2004

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To

1. The Regional Passport Officer,

Clock Tower, Secunderabad

2. 2 CD copies